

TODD KIM, Assistant Attorney General
JOSEPH H. KIM, Trial Attorney
THOMAS PORTS, JR., Trial Attorney
Natural Resources Section
Environment & Natural Resources Division
United States Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 305-0207

TRINA A. HIGGINS, United States Attorney (7349)
MELINA SHIRALDI, Assistant United States Attorney (13110)
CAMERON B. JOHNSON, Special Assistant United States Attorney (13996)
MICHAEL D. SMITH, Special Assistant United States Attorney
111 South Main Street, Suite 1800
Salt Lake City, UT 84111
(801) 524-5682

Attorneys for Defendant United States of America

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

KANE COUNTY, UTAH (2), (3), and (4), a Utah
political subdivision; and STATE OF UTAH,

Plaintiffs (or Plaintiff-Intervenor, as to State of
Utah in Kane County (2)),

v.

UNITED STATES OF AMERICA,

Defendant,

and

SOUTHERN UTAH WILDERNESS
ALLIANCE, *et al.*,

Defendant-Intervenors.

**DEFENDANT UNITED STATES'
NOTICE OF SUPPLEMENTAL
AUTHORITY**

Consolidated Case No. 2:10-cv-01073-CW

(Consolidated with Case Nos. 2:11-cv-
1031-CW and 2:12-cv-476-CW)

Judge Clark Waddoups

Pursuant to DUCivR 7-1(c), the United States submits this notice of supplemental authority, to inform the Court of the Supreme Court's recent decision in *Wilkins v. United States*, 598 U.S. --, 143 S.Ct. 870 (2023).

In the United States's Amended Motion to Dismiss [ECF No. 671] and Renewed Motion to Dismiss [ECF No. 755], the United States characterized the Quiet Title Act's disputed title requirement and statute of limitations as jurisdictional. *See* Amended Motion to Dismiss [ECF No. 671] at 1, 3, 8-11, 12 n.4, 14-15, 20-21; Renewed Motion to Dismiss [ECF No. 755] at 2.

Wilkins held that the 12-year statute of limitation in the Quiet Title Act, 28 U.S.C. § 2409a(g) is not a jurisdictional time bar, but instead "is a non-jurisdictional claims-processing rule." 143 S.Ct. at 881.

In light of *Wilkins*, the United States withdraws its arguments as being based on Fed. R. Civ. P. 12(b)(1) for lack of jurisdiction. Instead, these arguments may be recast as arguments under Fed. R. Civ. P. 12(b)(6) based on the Quiet Title Act's claims-processing rules. The substance of the United States' arguments should otherwise remain unchanged.

Respectfully submitted this 12th day of May, 2023,

TODD KIM
Assistant Attorney General

/s/ Joseph H. Kim
JOSEPH H. KIM, Trial Attorney
THOMAS PORTS, JR., Trial Attorney
Natural Resources Section
Environment and Natural Resources Division
United States Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 305-0207

TRINA A. HIGGINS (7349)
United States Attorney
District of Utah

MELINA SHIRALDI (13110)
Assistant U.S. Attorney
CAMERON B. JOHNSON (13996)
Special Assistant U.S. Attorney
MICHAEL D. SMITH
Special Assistant U.S. Attorney
111 South Main Street, Suite 1800
Salt Lake City, UT 84111
(801) 524-5682

Attorneys for Defendant United States of America